

WNYRIC STANDARDS**Add/Change Request Form**

Submitted By:

Name Frank Rizzo School District Alden CSD Date 2/1/2016Telephone Number (716) 937-9116, 4240 E-Mail ID frizzo@aldenschools.orgHardware or Software Recommended Specops DeployStandards Category: New: Existing: SoftwareAction Requested: Add: Allow new purchaseModify: Remove: Product Name: Specops DeployProduct Manufacturer: Specops - <http://www.specopssoft.com>Product Description: Software used to deploy computers

(Attach Product Technical Sheets)

Product Technical Sheet are attachedVolume Pricing information with Education DiscountSoftware License AgreementSupport & Maintenance AgreementAdditional Comments: Specops Deploy integrates with Active Directoryand uses your organizational structure to target computers forapplication and OS deployments

EVALUATION CRITERIA

A. Product Reliability

1. Vendor / Product track record

Specops has been around since 2001. They currently have offices in Sweden, Toronto, Philadelphia and in Nottingham, UK.

2. Vendor support required Installation phone and/or email support
will be needed in the setup of the software.

3. Ease of use Specops Deploy console has a GUI interface,
very user friendly

4. Support required by RIC / school district
The bulk of the work is importing operating systems, drivers and setting
up Deploy to get ready for installing your applications on workstations

5. Potential to become "White Elephant"
Specops was one of the first tools to make a Windows 10 deployment system.
They have been around long enough to keep the software current.

6. Training requirements

Minimal. The graphical user interface makes deployment much easier than using SCCM or Windows Deployment Services.

B. Product-Price / Acquisition

1. Cost effectiveness

Pay for perpetual license once then a support and maintenance fee based on number of workstations in your organization annually (see attached)

2. Acquire via NYS Contract or local bid

Not currently on NYS contract

3. Cost of operation and support

Yearly maintenance fee based on number of units ordered

4. Do any legal or contractual issues exist

None

C. Product-Relationship to Other Standards

1. Compatibility to existing Standards

The piece I like the most is the connection to Active Directory

2. What other options are available

Deployment of computers currently is with Symantec Ghost. It is all or nothing with regards to images. With Specops Deploy you can pick an OS and specific applications to provide custom deployments.

3. Relationship to previous research and changes since that time

n/a

D.

BOCES-Service Needs

1. Define and explain the current need

allow district to purchase Specops Deploy via BOCES

2. What existing CoSer and RIC Service does it fall under

Software, CLSO, Model Schools

3. What is the scope and size of the school population to be served

K-12 (about 1,000 computers)

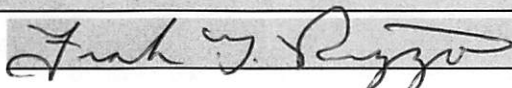
4. Instructional and/or administrative goal supported

The ability to deploy computers faster. We are looking to move to a 1:1 initiative with Microsoft Surfaces.

5. Results of survey determining school district interest in using this product

n/a

Signature of person making request

 2/1/16

Specops Deploy

Specops Deploy simplifies the installation of operating systems, software, and applications in your Microsoft Active Directory environment. Specops Deploy extends the functionality of Group Policy and can be used to target any number of computer objects within Active Directory.

You can use Specops Deploy to save the user state during installation, manage local user settings, capture operating system image, and remotely manage and monitor multi-site deployments. Specops Deploy can also be used for managing the System Center Endpoint Protection anti virus client.

Simplified deployment

Specops Deploy removes time-consuming manual tasks and improves IT efficiency through a simplified deployment process. Whether you are installing applications on multiple devices, or upgrading your computers to a new operating system, Specops Deploy is the key to ensuring your time is well spent.

Why spend hours troubleshooting a computer when it only takes a couple of minutes to reinstall and align with your or-

ganizational standards? By maintaining user state data, user profiles and documents your user will be up and running as if nothing happened.

Application management

Specops Deploy leverages your Active Directory infrastructure and creates a powerful application distribution platform through an innovative Group Policy based approach to application management. You can deploy a variety of application types, including Windows Installer package, Windows Installer Patch, App-V Package, Legacy Setup (.exe, .bat, .cmd), and Windows Store applications.

Smart monitoring

Specops Deploy monitors the activity in the system and offers real-time reports of what is happening at any given moment. This allows administrators to take the necessary action to quickly resolve any issues that may occur during a deployment, or verify that the deployment is running smoothly.

Why customers choose Specops



Zero touch deployment of all versions of Windows and any software package



No more troubleshooting, reinstall computers in minutes



Integrated fully in Active Directory, simply right-click the computer object and let the system take care of the rest



Real time reporting of deployments provides immediate insights

specopssoft.com

Manage operating systems and applications the smart way

SPECOPS

Subject: RE: boces
Date: Friday, January 22, 2016 at 10:56:19 AM Eastern Standard Time
From: Ben Webster
To: Rizzo, Frank
Attachments: image001.png, image002.png, image003.png, image004.png, image005.png, Specops_Datasheet_Deploy.pdf, BW00005721 - Alden CSD - 1000 Specops Deploy.pdf, Specops Software License Agreement-US.pdf, Specops Support & Maintenance Agreement-US.pdf

Hi Frank,

Here are the resources we spoke about:

- Specops Deploy datasheet – attached
- OS Deploy Install & Admin documentation - <http://www.specopssoft.com/support-docs/specops-deploy-os/installation/>
- App Deploy Install & Admin documentation - <http://www.specopssoft.com/support-docs/specops-deploy-app/installation/>
- Case Study (Ontario Ministry of Education - Provincial Schools Branch) - <http://www.specopssoft.com/our-case-studies/working-smart-with-automated-deployment-tool/>
- Case Study (Islip Public Schools #1) - <http://www.specopssoft.com/our-case-studies/os-upgrade-in-record-time/>
- Case Study (Islip Public Schools #2) - <http://www.specopssoft.com/our-case-studies/deployment-and-targeting-leveraging-active-directory/>
- Case Study (Syracuse University) - <http://www.specopssoft.com/our-case-studies/improved-large-scale-deployment-to-10000-workstations/>

Contact details for any of the above references can be provided upon request.

I have also attached a formal quote to show corporate pricing for the product, the price reduction for the quantity of 1000 computers, and the 50% edu discount we will apply to all public NY K12 districts. This also clearly shows the ongoing annual maintenance cost we discussed. I've also attached our license agreement and support & maintenance agreement, which may be requested by the committee as well.

If the committee is interested in seeing a bit more about pricing, we can tell them pricing scales with quantity, and we can provide them with the following samples:

Specops Deploy – 200 computers including 50% edu discount

200 Specops Deploy licenses @ \$19.80 = \$3,960

1st year Support & Maintenance = \$792

Total licensing + 1st year Support & Maintenance = \$4,752

Specops Deploy - 500 computers including 50% edu discount

500 Specops Deploy licenses @ \$15.59 = \$7,795

1st year Support & Maintenance = \$1,560

Total licensing + 1st year Support & Maintenance = \$9,355

Specops Deploy - 2000 computers including 50% edu discount

2000 Specops Deploy licenses @ \$11.43 = \$22,860

Specops Software

Software License Agreement



Software License Agreement

The terms laid out in this software license agreement constitute a binding agreement (the "Agreement") between Specops Software USA Inc. ("Specops") and a licensee (the "Licensee") of computer software (the "Software") produced by Specops. The Agreement governs the use of the Software as described below.

THE SOFTWARE IS LICENSED, NOT SOLD. ANY USE OF THE SOFTWARE IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT. BY INSTALLING, USING OR ACCESSING THE SOFTWARE THE LICENSEE AGREES TO BE BOUND BY THE TERMS OF THIS AGREEMENT.

1. Definitions

For the purpose of this agreement, the following words shall have the following meaning:

- a) *Specops* shall mean Specops Software USA Inc. and its affiliates.
- b) *Software* shall mean one or more software programs and components created, distributed, published or otherwise made available by Specops to which Specops holds right and title. This includes any updates and upgrades to the Software, manuals or other documentation and any and all copies of the Software and its related materials.
- c) *Licensee* shall mean the legal entity bound by this agreement through the use of the Software produced by Specops.
- d) *Agreement* shall mean this Software License Agreement and the terms and conditions laid out within it.
- e) *License* shall mean a license to utilize the Software granted to the Licensee by Specops under the terms and conditions laid out in this Agreement.
- f) *License Key* shall mean a sequence of letters and numbers uniquely representing the License granted to the Licensee under this Agreement. The License Key also contains information about the limitations of the License and specifies in detail to which Software the License applies to.

2. Title and Ownership

The Software is protected by intellectual property and copyright law. Except for the rights expressly granted herein, the Licensee shall have no right, title or interest in the Software, including any intellectual property rights. Specops retains sole and exclusive title to all parts of the Software. The Licensee hereby assigns to Specops all right, title and interest in any improvements or modifications it makes to the Software, whether or not such modifications are permitted. Upon termination of this Agreement for any reason, the Licensee shall cease to have any rights of any kind to retain or use the Software in any way.



SPECOPS: SOFTWARE LICENSE AGREEMENT

3. Grant of License

Subject to the terms and conditions in this Agreement and the limitations detailed in the License Key, Specops grants the Licensee a limited, non-exclusive, non-assignable and non-transferable License to utilize the Software for the duration of the term of this Agreement in exchange for the timely payment of the agreed license fees.

4. General License conditions

The Licensee shall not, or cause or permit any third party to:

- a) Install or use more than the permitted number of licenses of the Software as specified in the License Key.
- b) Modify, reverse engineer, decompile or disassemble the Software.

Without prior written permission from Specops the Licensee shall not, or cause or permit any third party to:

- c) Create derivative works based on the Software.
- d) Sell, assign, sublicense or transfer any rights in the Software.
- e) Offer, use or provide access to the Software to any third party.
- f) Distribute or transfer copies of the Software to any third party.

5. License limitation

The License is limited to a specified number of individuals or computers as detailed in the License Key used by the Licensee to unlock the functionality of the Software:

- (i) **Computer license.** The Licensee may install, use, access, display and run one copy of the Software on as many computers as specified in the License Key.
- (ii) **User license.** The Licensee may enable as many Active Directory user accounts as specified in the License Key to use, access and display the Software.

6. Term and Termination

Unless agreed otherwise, the term of this Agreement begins on the date when the Licensee accepts this Agreement and installs or otherwise uses the Software.

The end date of the term depends on the properties of the License Key used with the Software as specified below:

- (i) **Perpetual License.** The term of the Agreement is perpetual and the Agreement does not expire unless terminated by either party.
- (ii) **Subscription License.** The term of the Agreement ends on the expiration date specified in the License Key issued to the Licensee. Unless an automatic renewal of the Agreement is prevented by a request from either party with at least 30 days prior notice, the Agreement term will automatically renew for a new time period of 12 months and a new License Key reflecting the new expiration date will be issued to the Licensee. Additional license fees for the extended term will apply.



SPECOPS: SOFTWARE LICENSE AGREEMENT

The Licensee may terminate the Agreement at any time by written notification to Specops, upon which Specops must acknowledge that the Agreement has been terminated, however, any agreed license fees must still be paid as if the full term of the agreement had applied.

Specops may terminate the Agreement at any time if:

- a) The Licensee breaches any of the material terms of the Agreement, including, without limitation, via a failure to promptly pay any amount due hereunder.
- b) The Licensee commits any act of insolvency, including, without limitation, being the subject of a petition for bankruptcy, filing for voluntary bankruptcy, filing for protection from its creditors, filing or making a plan of arrangement, or having a receiver appointed over its business or assets.
- c) It determines that the Software infringes upon a third party's intellectual property rights.

If the Agreement is terminated for any reason, the Licensee shall immediately cease all use of the Software and return to Specops or, at Specops' request, destroy all copies of the Software and certify in writing that such has taken place.

7. Support and Maintenance Services

Support and Maintenance services covering the Software may be purchased separately by the Licensee.

The terms and conditions of such services are covered in the separate Support and Maintenance Agreement accompanying such a purchase.

8. Limited Software Warranty

Specops warrants that it is the owner of the Software. If any third party alleges that the Licensee's use of the Software infringes its rights, Specops will be responsible for responding to that allegation provided that the Licensee:

- a) Provides prompt written notice of the claim.
- b) Allows Specops to have full carriage of the response to such claims, including the right to enter into any settlement agreement.

If Specops determines that the Software infringes on any third party's rights, it may seek to procure any necessary licenses or modify the Software as to render it non-infringing.

9. Disclaimer of Warranty and Liability

Specops always uses its best effort to ensure that the Software works as documented. However, Specops does not warrant that the Software is: (a) fit for any particular purpose, (b) compatible with any particular software or hardware, (c) error free or (d) able to operate without interruption.

The Software is designed to assist the Licensee and its agents in the performance of professional activities and is not intended to replace their professional skill and judgment. Subject to the terms and conditions of this Agreement, the Licensee shall retain full responsibility for its use of the Software and assumes all risk and liability for any and all consequences following therefrom.

THE WARRANTY PROVIDED HEREIN IS THE SOLE AND EXCLUSIVE REMEDY FOR ANY SOFTWARE DEFECTS OR NON-CONFORMITY. ALL OTHER EXPRESS OR IMPLIED WARRANTIES, REPRESENTATIONS AND/OR CONDITIONS HOWSOEVER ARISING ARE



SPECOPS:SOFTWARE LICENSE AGREEMENT

HEREBY EXCLUDED TO THE FULL EXTENT PERMITTED BY LAW. UNDER NO CIRCUMSTANCES SHALL SPECOPS BE LIABLE TO ANY PERSON FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR ECONOMIC LOSSES OF ANY KIND ARISING FROM OR RELATING IN ANY WAY TO THE POSSESSION, INSTALLATION OR USE OF THE SOFTWARE.

IN NO EVENT SHALL SPECOPS' LIABILITY TO THE LICENSEE, HOWSOEVER ARISING, EXCEED THE AMOUNT OF THE LICENSE FEE PAID BY THE LICENSEE OR FIVE EUROS (EUR 5.00), WHICHEVER IS GREATER.

For greater certainty, the word "Specops" as used herein, shall mean Specops Software USA Inc. and its related companies and affiliates, its and their shareholders, officers, directors, employees and agents.

10. Fees & Notices

All required notices to Specops hereunder shall be delivered to one of the valid Specops points of contact as specified at www.specopssoft.com.

All amounts payable by the Licensee under this Agreement shall be paid upon receipt of an invoice unless otherwise agreed in writing. The Licensee is solely responsible for any taxes, duties, tariffs or other fees which may be levied by any legitimate government authority in relation to the Licensee's utilization of the Software.

11. Export Law and Other Legal Assurances

The Licensee may not export, re-export, download or otherwise use the Software except as permitted by applicable law.

12. Use of the Licensee's Name and Logotype

Specops may request permission from the Licensee to use its company name and/or logotype on the Specops web site for the sole purpose of indicating the existence of a customer relationship between the Licensee and Specops. When such requests are received, the Licensee shall respond without unreasonable delay.

13. Software Audit

Specops may request an audit of the Licensee's use of the Software for compliance with this Agreement at any time during the term of the Agreement. The Licensee agrees to promptly respond to such requests and assist Specops in any way necessary to complete the audit procedure. If an audit reveals any acts of infringement or non-compliance with this Agreement the Licensee shall reimburse Specops for any reasonable expenses related to the audit, without limiting any of Specops' other rights and remedies, including the right to terminate the Agreement and seek damages.

14. Non-assignment

The Licensee may not assign any of its rights or obligations hereunder without Specops' prior written consent and any such attempted assignment shall be null and void.



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15. No Third Party Benefit

This Agreement is entered into for the sole benefit of the named parties and nothing herein shall be construed as to create any obligation or benefit to any other person or entity.

16. Force Majeure

If the performance of any part of this Agreement is prevented or delayed by acts of civil or military authority, flood, fire, epidemic, war or riot or other acts beyond the reasonable control of either party, the party affected shall be excused from such performance only during the continuance of any such event.

17. Severability

The invalidity in whole or in part of any provision in this Agreement shall not affect the validity of any other provision, which shall remain in effect and be revised and interpreted as may be required to make it lawful and enforceable.

18. Amendments and Waiver

No amendment, waiver, alteration or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by both parties.

19. Entire Agreement

Except as expressly herein provided, this document constitutes the entire agreement between Specops and the Licensee with respect to the Software and there are no other promises, collateral agreements, representations, conditions, warranties etc. relating the subject matter hereof.

20. Governing Law and Dispute Resolution

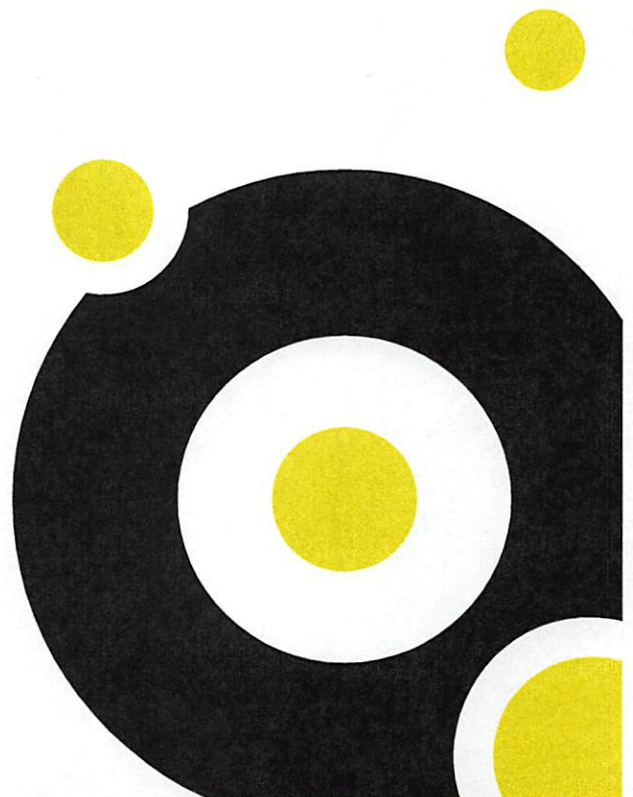
The laws of the State of Delaware and the laws of the United States of America applicable therein without reference to conflicts of law principles shall exclusively govern this Agreement and any related dispute between the parties. All disputes of any kind arising from or relating to this Agreement shall be resolved via final and binding arbitration, to be conducted in the State of Delaware in accordance with the then current rules applicable to commercial arbitration of the American Arbitration Association. The parties waive all challenges to the validity or enforceability of any award rendered in such arbitration. However, nothing herein shall prevent either party from seeking or obtaining interim relief from a court of competent jurisdiction.

BY ACCEPTING THIS AGREEMENT AND/OR USING THE SOFTWARE THE LICENSEE ACKNOWLEDGES THAT IT HAS READ, UNDERSTANDS AND AGREES TO BE BOUND BY THE TERMS SET FORTH HEREIN.



Specops Software

Support & Maintenance Agreement



Support & Maintenance Agreement

This Support & Maintenance Agreement (“Agreement”) is an agreement between Specops Software USA Inc. and its affiliates (“Specops”) and a licensee (“Licensee”) of software (“Software”) produced by Specops. The Agreement governs the support services (“Support Services”) and maintenance services (“Maintenance Services”) offered by Specops to the Licensee in relation to the licensed Software. The Agreement fully depends on the Licensee having a valid Software License Agreement for the related Software and Specops has no obligations to provide any services under this Agreement unless the related Software is appropriately licensed by the Licensee.

The service parameters covered by this Agreement are mutually understood by both parties to be the full extent of the obligations of Specops towards the Licensee with regards to the support and maintenance of the Software.

1. Term, Termination and Renewal

The term of this Agreement begins on the date when it is accepted by both parties and ends at a predetermined date a specified number of months later, unless terminated or renewed prior thereto by either party.

The Agreement renews automatically for another term of 12 months unless terminated by at least 30 days written notice by either party. Any renewal of the Agreement term is subject to further fees reasonably determined by Specops and related to the current license fees of the licensed Software.

The Licensee may terminate this Agreement at any time by submitting a termination request to Specops, after which Specops shall acknowledge that the Agreement has been terminated.

Specops may terminate this Agreement with immediate effect if:

- a) The Licensee breaches any of the material terms of this Agreement, including, without limitation, via a failure to promptly pay any amount due hereunder.
- b) The Licensee commits any act of insolvency, including, without limitation, being the subject of a petition for bankruptcy, filing for voluntary bankruptcy, filing for protection from its creditors, filing or making a plan of arrangement, or having a receiver appointed over its business or assets.
- c) The Licensee no longer has a valid license to use the Software.

Specops will notify the Licensee in writing if such termination takes place.

Specops is under no obligation to refund any fees paid by the Licensee in relation to this Agreement, regardless of when or how the Agreement is terminated.

2. Support Services

In exchange for the timely payment of any fees related to this Agreement, Specops will provide Support Services related to the licensed Software during the term of this Agreement.

The Support Services cover questions related to the installation, configuration and operation of the licensed Software. Specops reserves the right to limit each request to a single issue to be prioritized by the urgency of the issue to be resolved.



SPECOPS: SUPPORT & MAINTENANCE AGREEMENT

Specops has no obligation to provide Support Services if it reasonably determines (in its sole discretion) that a request for support under this Agreement falls in one of the following categories:

- a) Failures in the underlying IT infrastructure of the Licensee, which directly or indirectly affects the performance of the licensed Software.
- b) Problems related to other third party software.
- c) Requests related to business practices, consulting services or training.
- d) Product functionality not included with the licensed Software.
- e) Acts of omission by the Licensee or any user authorized by the Licensee to use the licensed Software.
- f) Events outside of Specops' reasonable control.

Assistance related to the above topics may still be provided on a consultancy basis in exchange for further fees outside the scope of this Agreement.

Language

All support services are offered in the English language unless both Specops and Licensee have agreed otherwise.

Licensee representative

The Licensee shall appoint at least one individual to be the representative of the Licensee responsible for all communication with Specops regarding the Support Services covered by this Agreement. The appointed representative shall submit all support requests to Specops through one of the provided support channels.

Support channels

Specops maintains and monitors the following support channels, which are the valid points of contact when submitting requests for Support Services under this Agreement:

Support Channel	Availability	Case resolution process
Online support www.specopssoft.com/support	Always	Cases submitted online are processed as soon as possible according to the problem severity.
Telephone Support – International +46 8 465 012 50	Normal business days 09:00 to 18:00 CET	Cases submitted by telephone are opened immediately, but are also prioritized according to problem severity. Low priority cases are encouraged to be submitted through the online support form.
Telephone Support – North America +1-877-SPECOPS (773-2677) +1 416 849 5325	Normal business days 09:00 to 17:00 EST	Cases submitted by telephone are opened immediately, but are also prioritized according to problem severity. Low priority cases are encouraged to be submitted through the online support form.



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Support Channel	Availability	Case resolution process
Email support@specopssoft.com	Always	Cases submitted through email are processed at regular intervals during normal business hours and prioritized according to problem severity.

Support priorities

Incoming support requests are prioritized according to the severity of the request:

Problem severity	Priority	Explanation
Informational	Low	Technical questions about product functionality and other related issues are issued a low priority.
Impaired	Medium	In situations where the product functionality is impaired or otherwise degraded, the problem is given a medium priority.
Non-functional	High	If the product does not work at all the problem is given a high priority.
Critical	Highest	Problems with the product that cause other systems to fail or otherwise severely impact the business of the Licensee are given the highest priority.

Updating to the latest released software version

Specops reserves the right to request that the Licensee installs an updated version of the licensed Software if it determines (in its sole discretion) that it is the best way to resolve a reported problem.

Software updates are provided to the Licensee free of charge in accordance with the Software Maintenance section of the Agreement, however, additional fees for installation services provided by Specops if requested by the Licensee may apply.

If the Licensee fails to comply with a request from Specops to install an updated version of the licensed Software, any further entitlement to Support Services related to the reported problem are forfeited.

Case resolution process

Specops will make every effort to quickly resolve all submitted support cases.

A first response should be expected within one business day from the case submission time, after which the case will be handled according to the problem severity, as determined by Specops.

During the case resolution process it is the responsibility of the Licensee to ensure that:

- Underlying IT infrastructure, such as Active Directory and its related technologies are functioning correctly.



SPECOPS:SUPPORT & MAINTENANCE AGREEMENT

- The representative of the Licensee that submitted the support request is reasonably available to answer questions and/or perform corrective actions related to the case.
- Specops is informed as soon as the case has been resolved.

Specops is responsible for making sure that resolution of the case progresses in a timely manner.

Specops reserves the right to close any submitted case if the Licensee fails to perform suggested corrective actions or to keep Specops informed of the progress on their end. Cases may be reopened at any time at the request of the Licensee.

3. Maintenance Services

In exchange for the timely payment of any fees related to this Agreement, Specops will provide Maintenance Services related to the Software licensed by the Licensee during the term of this Agreement.

The Maintenance Services include all upgrades, updates and revisions to the licensed Software which Specops makes available during the term of this Agreement, which the Licensee is entitled to install and use without any additional fees.

Any new version of the Software which the Licensee installs and uses subsequently counts as the Licensee's licensed version of the Software.

The latest released version of the licensed Software is available for download at:

<http://www.specopssoft.com>

Software upgrades

From time to time Specops will release upgraded versions of the licensed Software. These upgrades are denoted by an increment in the major version number of the Software, such as changing the version number from 1.9 to 2.0.

Software upgrades typically include new features and functionality or other changes to the architecture of the Software. Software upgrades require a new license key to be used with the licensed Software after it has been installed.

New license keys can be requested from Specops as required by the Licensee.

Software updates

From time to time Specops will release updated versions of the licensed Software. These updates are denoted by an increment in the minor version number of the Software, such as changing the version number from 1.9 to 1.10.

Software updates typically include bug fixes and general improvements, but may also include new features and functionality.

Software revisions

Between the releases of upgrades and updates to the software Specops may also release any number of minor revisions to the software.

Software revisions do not contain any new features and typically fix minor problems in specific areas of the software.



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4. Fees & Notices

All amounts payable by the Licensee under this Agreement shall be paid upon receipt of an invoice unless otherwise is agreed in writing. The Licensee shall be solely responsible for any taxes, duties, tariffs or other fees which may be levied by a legitimate government authority in relation to the Licensee's purchase of Support & Maintenance services.

All required notices to Specops under this Agreement shall be delivered to a Specops office via courier unless otherwise is agreed between the parties.

5. No third party benefit

This Agreement is entered into for the sole benefit of the named parties and nothing herein shall be construed as to create any obligation or benefit to any other person or entity.

6. Force Majeure

If the performance of any part of this Agreement is prevented or delayed by acts of civil or military authority, flood, fire, epidemic war, riot or other acts beyond the control of either party, the party affected shall be excused from such performance only during the continuance of any such event.

7. Severability

The invalidity in whole or in part of any provision in this Agreement shall not affect the validity of any other provision, which shall remain in effect and be revised and interpreted as may be required to make it lawful and enforceable.

8. Governing Law and Dispute Resolution

The laws of the State of Delaware and the laws of the United States of America applicable therein without reference to conflicts of law principles shall exclusively govern this Agreement and any related dispute between the parties. All disputes of any kind arising from or relating to this Agreement shall be resolved via final and binding arbitration, to be conducted in the State of Delaware in accordance with the then current rules applicable to commercial arbitration of the American Arbitration Association. The parties waive all challenges to the validity or enforceability of any award rendered in such arbitration. However, nothing herein shall prevent either party from seeking or obtaining interim relief from a court of competent jurisdiction.

BY ACCEPTING THIS AGREEMENT AND/OR USING THE SOFTWARE, SUPPORT SERVICES OR MAINTENANCE SERVICES THE LICENSEE ACKNOWLEDGES THAT IT HAS READ, UNDERSTANDS AND AGREES TO BE BOUND BY THE TERMS SET FORTH HEREIN.

